

REMARKS

Claims 1-28 are pending in this application and claims 16-22 and 26-28 have been withdrawn. Claims 1-15 and 23-25 have been rejected. Claims 1, 4, 5 and 7 have been amended herein and claims 2, 6 and 16-28 have been cancelled. Reconsideration and withdrawal of the rejections are respectfully requested in light of the above amendments and following remarks.

The Examiner has indicated that the information disclosure statement filed on 5/11/05 fails to comply with 37 C.F.R. 1.98(a)(2). A new IDS is submitted herewith which includes a copy of the foreign reference.

Claims 1, 3, and 14-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Grimard (U.S. Patent No. 5,795,337). Moreover, claims 1, 3, 11 and 14-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Grimard et al (U.S. Patent No. 5,899,881). Claim 1 has been amended herein to incorporate the limitations of dependent claim 2. As such, it is respectfully submitted that these rejections are now moot.

Claims 1-10 and 14-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Shadd, Jr. (U.S. Patent No. 6,053,894). The Examiner has taken the position that the Shadd reference discloses, *inter alia*, a syringe assembly comprising a barrel 12 with an elongate tip 16, a plunger (40, 44) and a resilient stopper, as elements 30 and 36. With respect to claim 2, the Examiner has stated that Shadd discloses a stopper with a distal end and a proximal end having a cavity, wherein the plunger is connected to complementary detent structure created by proximal end 30 in conjunction with elements 44 and 38. The first detent position is shown in Fig. 2 of Shadd, while the second detent position is shown in Fig. 3 of Shadd.

Claim 1 as amended herein, recites that the stopper includes a first discontinuity and a second discontinuity and the plunger includes a discontinuity. In the first detent position, the plunger discontinuity engages the first discontinuity of the stopper, while in the second detent position, the plunger discontinuity engages the second discontinuity of the stopper. Shadd fails to disclose a first and second discontinuity on the stopper. Rather, Shadd discloses a plunger (shaft 40) which includes a stopper (piston 30). The stopper 30 is attached to the plunger 40 at the proximal most tips of the stopper 30. In Fig. 3, when the plunger 40 is fully depressed, plunger 40 continues to engage the proximal tips of stopper 30. It appears that the elastomeric material of the stopper 30, shown in Fig. 3 has not detached from its original attachment point to the plunger 40 at the proximal tips of the stopper 30. Moreover, the stopper 30 of Shadd appear to define a hollow cavity internally, which allows for the continued connection between the stopper and plunger. Thus, Shadd fails to disclose a first detent position and second detent position, as well as a stopper having a first discontinuity and a second discontinuity, as recited in claim 1.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. §2129 (quoting *Verdegall Bros. v. Union Oil CO. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053(Fed. Cir. 1987). As discussed, the syringe of Shadd fails to disclose each element of claim 1. Since Shadd fails to disclose each of the elements of independent claim 1, it is respectfully submitted that the 35 U.S.C. 102(b) rejection should be withdrawn with respect to the claim 1. In addition, claims 3-5 and 7-15 all depend either directly or indirectly from claim 1 and therefore include each of the limitations of claim 1, in addition to other novel features. As such it is further respectfully submitted that the 35 U.S.C. 102(b) rejection should be withdrawn with respect to these claims as well.

Claim 12 was further rejected under 35 U.S.C. 103(a) as being unpatentable over Grimard or Shadd in view of Caizza or Odell and claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Grimard et al. Claims 12 and 13 depend indirectly off of claim 1, which is believed to be allowable. As such, the 35 U.S.C. 103(a) rejections should be withdrawn with respect to these claims, for at least the reasons set forth above.

Claims 23-25 have been cancelled herein, therefore the rejections of these claims are now moot.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (201) 847-6797 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 02-1666 therefor.

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Respectfully submitted,

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